

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

TRUSTEES OF IBEW LOCAL NO. 7)	
HEALTH & WELFARE FUND, et al .)	
Plaintiffs,)	
)	
v.)	C.A. No. 05-30187-KPN
)	
TREMBLAY ELECTRIC, INC.)	
Defendant.)	
_____)	

MOTION FOR ENTRY OF JUDGMENT

Plaintiffs, Trustees of IBEW Local No. 7 Pension Fund, Trustees of IBEW Local No. 7 Annuity Fund and Trustees of IBEW Local No. 7 Health & Welfare Fund, upon the accompanying Declaration of Joseph Fitzpatrick, respectfully move pursuant to F.R.C.P. 55(b) (1), for entry of judgment by the Clerk ordering the Defendant, Tremblay Electric, Inc. pay to the plaintiff the sum of \$37,532.97 in damages and taxable costs.

Plaintiffs, by their attorney

/s/ Aaron D. Krakow _____
Aaron D. Krakow
BBO #244424
KRAKOW & SOURIS, LLC
225 Friend Street
Boston, MA 02114
(617) 723-8440

CERTIFICATE OF SERVICE

I, Aaron D. Krakow, hereby certify that I caused a copy of the foregoing to be mailed this date to Tremblay Electric, Inc., 85 Union Street, North Adams, MA 01247.

/s/ Aaron D. Krakow _____
Aaron D. Krakow

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HEALTH & WELFARE FUND, et al .)	
Plaintiffs,)	
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)	
TREMBLAY ELECTRIC, INC.)	
Defendant.)	
_____)	

JUDGMENT

NEIMAN, D.J.

Defendant, Tremblay Electric, Inc having failed to plead or otherwise defend this action and default having been entered on November 15, 2005.

Now upon application of plaintiff and an affidavit demonstrating that defendant owes plaintiff the sum of \$37,214.09, that defendant is not an infant or incompetent person or in the military service of the United States, that and that plaintiff has incurred costs in the sum of \$318.88.

ORDERED, ADJUDGED AND DECREED:

1. That plaintiffs recover from defendant Tremblay Electric, Inc the sum of \$37,532.97 with interest as provided by law.

By the Court,

Deputy Clerk

Date: _____

UNITED STATES DISTRICT COURT
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HEALTH & WELFARE FUND, et al .)	
Plaintiffs,)	
)	
v.)	C.A. No. 05-30187-KPN
)	
TREMBLAY ELECTRIC, INC.)	
Defendant.)	
_____)	

DECLARATION OF JOSEPH FITZPATRICK

Joseph Fitzpatrick, under penalties of perjury, hereby declares as follows:

1. I am presently the IBEW Local No. 7 Business Agent and a Trustee of the IBEW Local No. 7 Pension Fund and Annuity Fund.
2. In that capacity I am responsible for receiving the contributions due to the IBEW Local No. 7 Pension Fund, Annuity Fund and Health & Welfare Fund (referred to collectively as “the Funds”) from employers such as defendant that have entered into a collective bargaining agreement with IBEW Local No. 7. Pursuant to that agreement, signatory employers such as defendant have agreed to make contributions and payments to the Funds at specified hourly rates for each hour of work covered by the collective bargaining agreements that their employees perform.
3. Defendant Tremblay Electric, Inc. has failed to make contributions and payments to the plaintiff Funds for hours of work performed by its employees, and the Funds have calculated that defendant is delinquent in its contributions and payments due to the Funds based on those hours of work from March through October 2005 and the applicable hourly contribution rates in the principal amount of \$33,698.23.

4. The collective bargaining agreement referenced above upon which defendant's contribution obligation is based provides for interest on delinquent contributions to be assessed at the rate of 12% per annum or 1% per month, and such interest is also expressly mandated by law, 29 U.S.C. §1132(g)(2)(B).

5. The Funds have calculated the interest charges on the principal amount owed to the Funds by Tremblay Electric, Inc. based on the applicable interest rate computed to through October 2005 to be \$1,347.93.

6. Section 502(g)(2)(C) of ERISA, 29 U.S.C. §1132(g)(2)(C) and provides for an additional assessment of interest as liquidated damages.

7. The Funds have calculated the liquidated damages to be \$1,347.93.

8. The reasonable attorney's fees for instituting and prosecuting this action that are required by the relevant collective bargaining agreements and that are also expressly mandated by law, 29 U.S.C. §1131(g)(2)(D), are \$820.00.

9. The costs incurred by the plaintiff in bringing this action consisting of filing and service fees total \$318.88.

10. The total amount owed to the Funds by defendant consisting of the separate amounts listed in paragraphs 3 through 9 of this affidavit, totals \$37,532.97.

11. The defendant is neither an infant and/or an incompetent person, nor in the military services of the United States.

I declare under the penalties of perjury that the foregoing is true and correct this day of November, 2005.

/s/Joseph Fitzpatrick
Joseph Fitzpatrick, Business Agent and
Trustee of the Funds

CERTIFICATE OF SERVICE

I, Aaron D. Krakow, hereby certify that I caused a copy of the foregoing to be mailed this date to Tremblay Electric, Inc., 85 Union Street, North Adams, MA 01247.

/s/ Aaron D. Krakow

Aaron D. Krakow